

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

OCT - 6 2002

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SRINATH HOSUR and ANAND G. DABAK

Application No. 09/224,401

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on September 16, 2002. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On June 17, 2002, the examiner filed an improper supplemental examiner's answer (Paper No. 18). 37 CFR § 1.193(b)(1)(1997)¹. On page 8 of the supplemental examiner's answer, the examiner has made a new objection to claim 9. The

¹A supplemental examiner's answer is improper unless the application has been remanded by the Board of Patent Appeals & Interferences for the examiner to issue one.

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examiner needs to either vacate the supplemental examiner's answer or reopen prosecution. Appropriate notification to appellants is required.

In addition, on page 7 of the answer, the examiner mentions a reference to Sousa (U.S. Pat. No. 5,832,044) in a rejection over claim 11. This reference was not listed as prior art (see page 3). Appropriate correction is required.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) to vacate the original supplemental examiner's answer; 2) issuance of a new supplemental examiner's answer that addresses the use of the Sousa reference only; and 3) for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
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By: _____

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